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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/960,208	09/22/2001	Robert Joseph Statz	AD6597 US CIP	6480

23906 7590 02/03/2004

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EXAMINER

BUTTNER, DAVID J

ART UNIT	PAPER NUMBER
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1712

DATE MAILED: 02/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/960,208

Applicant(s)

STATZ ET AL.

EO

Examiner

David Buttner

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 November 0803.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6,7,12 and 14-18 is/are allowed.
- 6) ☒ Claim(s) 1,4,5,8-11,13,19-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The 5% minimum is outside the bounds of claim 8.

Claim 23 objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim 21 already requires adding thermoplastics in step (C). Step (6) already required neutralization to at least 95%.

Claims 1, 4, 5, 8-11, 13, and 19-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over the GB 2164342 in view of Chen '321 or WO 98/46671.

The GB reference exemplifies blends of ethylene/acrylic acid copolymer, polyetheramide and neutralizing agent (table 2). All of the groups are neutralized (page 2, line 50). Metal stearate additives are not suggested. The blend is useful for cores of golf balls or as one piece balls (page 1, line 7).

Both Chen references teach metal stearates improve the ionomer cores of golf balls (see abstract). It would have been obvious to add metal stearates to the GB '342 compositions for the expected advantages. Also Chen (col. Lines 47-67 of '321; page 10, line 10-30 of WO 98/46671) teaches fillers can be added to adjust the density. Determining appropriate amounts are within the skill of the artisan according to Chen.

Claims 6, 7 12 and 14 -18 are allowable.

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Applicant's arguments filed 11/28/03 have been fully considered but they are not persuasive.

Applicants argues claims 9 and 11 require terpolymer.

The examiner does not agree. The word "terpolymer" does not appear.

The "E/X/Y" structure allows for an amount of Y "up to 50%". "Up to" is recognized as including zero (In re Mochel 176 USPQ 194; MPEP 2173.05 c)

Applicant argues GB'342 does not suggest inclusion of the organic acid and therefore cannot suggest neutralizing all the acid in both the polymer and organic acid additive.

The reflection is premised on adding metal stearate to the 100% neutralized polymers of GB '342. Because the metal stearate is fully neutralized and the polymer is fully neutralized, the resulting composition would necessarily be fully neutralized.

Applicant argues Chen requires neutralization of his ionomer below 90% for the stearate to work.

Chen never states what will happen if the stearates are added to higher neutralized ionomers. The 90% maximum was in all likelihood due to the low melt index associated with high neutralizations. Mixing and processing would be difficult or impossible.

This processing difficulty is not present in GB '342. The inclusion of the extra components (i.e. the thermoplastic) overcomes these difficulties. The GB'342 composition is processable at 100% neutralization (see examples). One would expect metal stearates to function in the composition of GB '342.

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Regarding process claims 21 and 25, it would have been prima facie obvious to add the metal stearate to the GB '342 composition at any point in the mixing process. The GB '342 composition is processable (due to the thermoplastic) even without metal stearate.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Buttner whose telephone number is (571) 272-1084. The examiner can normally be reached on Weekdays from 10:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

DAVID J. BUTTNER
PRIMARY EXAMINER

D. Buttner/af
January 26, 2004

